

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

In re:

Matthew D. Cooke,¹
Debtor

Case No.
19-33983-KLP

Chapter
7

**TRUSTEE’S APPLICATION TO RETAIN AND EMPLOY
TAVENNER & BERAN, PLC AS COUNSEL FOR THE TRUSTEE**

Lynn L. Tavenner, Trustee (the “**Trustee**”) for the Bankruptcy estate (the “**Estate**”) of Matthew D. Cooke (the “**Debtor**”), hereby submits this application (“**Application**”) pursuant to 11 U.S.C. § 327(a) and Rule 2014 of the Federal Rules of Bankruptcy Procedure for authorization to employ Tavenner & Beran, PLC (“**Tavenner & Beran**”), as counsel for the Trustee retroactive to September 10, 2019, and in support thereof states the following:

1. On July 31, 2019, the Debtor filed for relief under Chapter 7 of Title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “**Bankruptcy Code**”).

2. Lynn L. Tavenner was appointed interim trustee, and she continues to serve in that capacity.

3. The Trustee requires the immediate and continued assistance of Tavenner & Beran principally to provide legal assistance and advice concerning the analysis and possible

¹ The Debtor’s address of record as of the petition date was 2489 Gold Leaf Circle, Henrico, Virginia 23233, and the last four digits of the Debtor’s social security number are -7361.

Lynn L. Tavenner, Trustee
Tavenner & Beran, PLC
20 North 8th Street, Second Floor
Richmond, Virginia 23219
Telephone: (804) 783-8300
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prosecution of avoidance actions, as well as other possible state law claims, the liquidation of assets, and the resolution of claims asserted against said property and/or the Estate. While the engagement will be directed primarily at these matters, the scope of the engagement will include all such legal matters as the Trustee may assign to Tavenner & Beran from time to time.

4. Due to its experience and expertise, the Trustee proposes immediately to employ Tavenner & Beran. Moreover, the proximity of Tavenner & Beran to the Trustee will permit efficiency in delivering legal services and prompt communication with the Trustee, which should result in a greater recovery for the Estate and in economy of expenses to the Estate.

5. The Trustee proposes to employ Tavenner & Beran under a general retainer at the firm's customary hourly rates for comparable services. The firm's current standard hourly rates for attorneys are between \$450.00 and \$250.00. The firm's current standard hourly rate for paraprofessionals is \$110.00. The Trustee proposes to reimburse Tavenner & Beran for all reasonable out of pocket expenses incurred in representing the Trustee pursuant to §§ 330 and 503 of the Bankruptcy Code to the extent the funds are available in the Estate to reimburse such expenses.

6. Tavenner & Beran will record the time of its professionals at the firm's regular hourly rates for its partners and paralegals for its legal services. Tavenner & Beran's rates are reviewed, and when deemed appropriate, adjusted annually. Tavenner & Beran will utilize paralegals from time to time where the tasks required can be accomplished by a paralegal with a corresponding reduction in the applicable hourly rate.

7. The Trustee believes, to the best of her knowledge, that Tavenner & Beran does not have any connections with the Debtor, creditors, or any other party in interest or their

respective attorneys and accountants that would render Tavenner & Beran not “disinterested” within the meaning of § 101(14) of the Bankruptcy Code. Filed contemporaneously herewith as Exhibit A is the Declaration of Paula S. Beran attesting to the supporting facts and this conclusion.

WHEREFORE, Lynn L. Tavenner, Trustee, hereby requests that the Court enter an order, substantially in the form attached hereto as Exhibit B approving the employment of Tavenner & Beran, as set forth herein, and to award any further relief the Court deems proper.

Respectfully submitted,

Dated: September 11, 2019
Richmond, Virginia

LYNN L. TAVENNER, CHAPTER 7 TRUSTEE
By: /s/ Lynn L. Tavenner
Lynn L. Tavenner, Trustee
Tavenner & Beran, PLC
20 North 8th Street
Richmond, Virginia 23219
Telephone: (804) 783-8300
Telecopier: (804) 783-0178

Chapter 7 Trustee

CERTIFICATE OF SERVICE

Pursuant to the Local Rules of this Court, I certify that on this 11th day of September 2019, a true copy of the foregoing Application was sent electronically to:

Robert B. Van Arsdale, Esquire
Office of the United States Trustee
701 East Broad Street, Suite 4304
Richmond, Virginia 23219-1885

Robert L. Flax, Esquire
Robert L. Flax
8 South Sheppard Street
Richmond, VA 23221

And all other parties receiving ECF notices in this case.

/s/Lynn L. Tavenner
Lynn L. Tavenner, Trustee

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DECLARATION OF PAULA S. BERAN

Pursuant to Rule 2014(a) of the Federal Rules of Bankruptcy Procedure, Paula S. Beran, does hereby swear, under penalty of perjury:

1. I am a member in good standing of the Bar of the State of Virginia and admitted to practice before the United States Court of Appeals for the Fourth Circuit and the United States District Courts and Bankruptcy Courts for the Eastern and Western Districts of Virginia.

2. I am a partner/member of the law firm of Tavenner & Beran, PLC (“**Tavenner & Beran**”) and am duly authorized to make this Declaration on behalf of Tavenner & Beran. I make this Declaration in support of the Trustee’s Application to Retain and Employ Tavenner & Beran, PLC as Counsel for the Trustee (the “**Application**”). I personally know the facts set forth in this Declaration and, if called as a witness, I could and would testify thereto. Unless otherwise defined, all capitalized terms used herein have the meanings given to them in the Application.

3. The law firm of Tavenner & Beran has extensive experience in bankruptcy, insolvency, reorganization, and debtor/creditor law. The firm is well qualified to represent the Trustee in this bankruptcy case and is willing to accept employment on the basis set forth in the Application.

4. The law firm of Tavenner & Beran, its partners, and associates hold no interest adverse to the Debtor or the Estate, and Tavenner & Beran is a “disinterested person” as defined in § 101(14) of the Bankruptcy Code. The only connections with the Debtor, its creditors, any other party in interest, its respective attorneys and accountants, the United States Trustee, or any person employed in the office of the United States Trustee, of which Tavenner & Beran, its partners or associates, are aware are as follows:

- a) A former employee of the law firm of Tavenner & Beran, Ms. Shannon Pecoraro, is currently employed with the Richmond Office of the Office of the United States Trustee.
- b) Ms. Lynn L. Tavenner, the Trustee, in her individual capacity and Paula S. Beran, an attorney at Tavenner & Beran are personal friends and are the members of (i) Tavenner & Beran; (ii) a limited liability company that owns real property; and (iii) another limited liability company that continues in existence but has never been active.
- c) Prior to appointments to the bench, Tavenner & Beran represented the Honorable Keith L. Phillips and the Honorable Kevin R. Huennekens as Chapter 7 trustees in unrelated cases.

5. The proposed employment of Tavenner & Beran is not prohibited by or improper under Bankruptcy Rule 5002.

/s/ Paula S. Beran
Paula S. Beran

Exhibit B

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
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**ORDER AUTHORIZING THE RETENTION AND EMPLOYMENT
OF TAVENNER & BERAN, PLC AS TRUSTEE'S COUNSEL**

This matter came before the Court upon the Trustee's Application to Retain and Employ Tavenner & Beran, PLC as Counsel for the Trustee (the "**Application**"). The Court (a) having reviewed (i) the Application and (ii) the Declaration of Paula S. Beran, a partner/member in the law firm of Tavenner & Beran, PLC ("**Tavenner & Beran**"), attached to the Application as Exhibit A (the "**Declaration**"); and the Court being fully advised in the premises and having determined that the legal and factual bases set forth in the Application and the Declaration establish just cause for the relief granted herein;

THE COURT HEREBY FINDS THAT:

- A. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.
- B. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

¹ The Debtor's address of record as of the petition date was 2489 Gold Leaf Circle, Henrico, Virginia 23233, and the last four digits of the Debtor's social security number are -7361.

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C. Notice of the Application (and service of the proposed order) was sufficient under the circumstances.

D. The Application and the Declaration are in full compliance with all applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules of this Court.

E. Tavenner & Beran does not represent any entity adverse to the Debtor or to the Estate. Furthermore, Tavenner & Beran does not hold any interest adverse to the Debtor or to the Estate, and Tavenner & Beran is a “disinterested person,” as defined in § 101(14) of the Bankruptcy Code and as required by § 327(a) of the Bankruptcy Code.

F. The retention and employment of Tavenner & Beran in accordance with the Application and this Order is in the best interest of the Estate.

IT IS HEREBY ORDERED THAT:

1. The Application is hereby APPROVED.
2. Capitalized terms not otherwise defined herein shall have the meanings given to them in the Application.
3. The Trustee is authorized to retain and employ Tavenner & Beran as counsel, pursuant to § 327 of the Bankruptcy Code, retroactive to September 10, 2019.
4. Tavenner & Beran shall be compensated for such services and reimbursed for any related expenses as provided in the Application, and in accordance with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any additional procedures that may be established by this Court.

Entered:

UNITED STATES BANKRUPTCY JUDGE

I ask for this:

/s/

Lynn L. Tavenner, Trustee
Tavenner & Beran, PLC
20 North Eighth Street, Second Floor
Richmond, Virginia 23219
Telephone: (804) 783-8300
Telecopy: (804) 783-0178

Chapter 7 Trustee

Seen and not objected to:

/s/

Robert B. Van Arsdale, Esquire
Office of the United States Trustee
701 East Broad Street, Suite 4304
Richmond, Virginia 23219
(804) 771-8004

Assistant United States Trustee

CERTIFICATION

I hereby certify under Local Rule 9022-1 that the foregoing proposed Order was served on all requisite parties and has been endorsed by all necessary parties.

/s/

Lynn L. Tavenner, Trustee

Service List:

Paula S. Beran, Esquire
Tavenner & Beran, PLC
20 North Eighth Street, Second Floor
Richmond, Virginia 23219